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August 12, 2019

**VIA EMAIL & U.S. MAIL**

Matthew C. Barneck  
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**Re: Rule 37 Meet & Confer Letter**

Dear Matthew:

On June 12, 2019, Plaintiffs served their first set of document requests on Ulrich and Smash Solutions. To date, there are many glaring deficiencies in their collective document production. We look forward to working with you short of court involvement to resolve these issues.

**I. J.J. ULRICH'S DEFICIENT RESPONSES TO DOCUMENT REQUESTS**

**REQUEST NO. 1:** Please produce all documents *that support the damages that you claim in this case*, including all documents that you will provide to any expert witness who you retain to calculate your damages.

**Ulrich's Deficient Response.** Ulrich stated he "is gathering responsive documents that will be produced as soon as they are available." This is insufficient. There is no explanation as to what documents he is gathering and when they will be produced. Plaintiffs served document requests two months ago. Please produce responsive documents immediately.

**REQUEST NO. 2:** Please produce records of all *your personal financial transactions from 2015 to the present*, including but not limited to bank account records, credit card statements, accounting records, crypto currency withdrawals and exchange conversion receipts, ledgers, profit-loss statements, balance sheets, and any schedules of debts, liabilities, or assets.



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**Ulrich's Deficient Response.** Ulrich stated he "is gathering responsive documents that will be produced as soon as they are available." This is insufficient. There is no explanation as to what documents he is gathering and when they will be produced. Plaintiffs served document requests two months ago. Please produce responsive documents immediately.

To be clear, Ulrich has not produced any information related to his personal financial transactions, which is at the heart of this case given his alleged commingling of funds and his deceptive use of Alexander's investment resources, including cash and Bitcoin transactions. To date, among other responsive documents, Ulrich has failed to produce checks, bank account records, credit card statements, wire transfers, accounting records, ledgers, profit-loss statements, balance sheets, and any schedules of debts, liabilities, or assets.

**REQUEST NO. 3:** Please produce copies of *all federal and state tax returns* you filed personally or filed for other entities you own, direct, control, or have an interest in for the taxable years 2015 through the present.

**Ulrich's Deficient Response.** Ulrich states he "does not have responsive documents in his possession but will supplement this Response when such documents or information become available." This is insufficient and belies credibility. Ulrich clearly has access to his personal and business tax returns. Ulrich has an obligation to collect and produce these documents, which clearly fall under his possession, custody, or control even if copies are maintained by accountants or other service providers. Please produce responsive documents immediately.

**REQUEST NO. 4:** Please provide any agreements, contracts, or draft documents between, on the one hand, you, Solutions, Innovations, and/or any other business entity you have an interest in and, on the other hand, any individual or entity for employment, membership, ownership, or operations.

**Ulrich's Deficient Response.** Ulrich points to some responsive documents he produced. There are notable omissions, however, including but not limited to employment contracts with employees, investor agreements with investors, and K-1 or other filings with governmental authorities and agencies. Please produce these responsive documents immediately.

**REQUEST NO. 8:** Please produce copies of any documents supporting or relating to *any transactions between you, Technology, Solutions, Innovations, and/or Feracode from 2015 to the present*, including but not limited to checks, wire transfer records, payment receipts, bank account records, cryptocurrency accounts and transaction receipts and records, and other related documents.

**Ulrich's Deficient Response.** Ulrich points to a handful of responsive documents he produced, but it is not anywhere close to the entire realm of responsive documents. Indeed, Ulrich has failed to produce checks, wire transfer records, payment receipts, bank account



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records, cryptocurrency accounts and transaction receipts and records, and other related documents demonstrating transactions between him, personally, and Technology, Solutions, Innovations, and/or Feracode. As your client is aware, obtaining evidence of Ulrich's real time financial transactions—flowing from his accounts (personal or business) to the relevant entities, including Feracode—will be critical evidence in this case. To date, he has failed to produce any documents relating to a single financial transaction from 2015 to the present. Ulrich merely identifies copies of the Feracode Master Services Agreement and related correspondence he produced. But those documents do not evidence any actual financial transactions. Please produce all responsive documents immediately.

**REQUEST NO. 12:** Produce all documents and other tangible things which evidence, reflect, discuss, or relate to ***your formation, funding, and/or operation of Smash Innovations, LLC***, including but not limited to oral and written agreements, meeting minutes, checks, invoices, bank statements, cash deposits, Bitcoin withdrawals and payments and/or exchanges, wire transfers, emails, text messages, instant messages, or voice messages.

**Ulrich's Deficient Response.** Ulrich produced articles of incorporation, registered agent, certificate of organization, operating agreement, and tax EIN documents for Smash Innovations. These basic documents are insufficient. They do not include any meeting minutes, checks, invoices, bank statements, cash deposits, Bitcoin withdrawals and payments and/or exchanges, wire transfers, emails, text messages, instant messages, or voice messages. For example, it is difficult to believe that Ulrich does not have substantial email or text communications with persons or entities related to his funding, formation, and operation of Smash Innovations. Please produce all responsive documents immediately.

**REQUEST NO. 13:** Produce all documents and other tangible things which evidence, reflect, discuss, or relate to your ***discussions, negotiations, payments, transactions, and/or agreements with Feracode, LLC*** and/or any of its principals or agents, including but not limited to oral and written agreements, meeting minutes, checks, invoices, bank statements, cash deposits, Bitcoin withdrawals and payments and/or exchanges, wire transfers, emails, text messages, instant messages, or voice messages.

**Ulrich's Deficient Response.** Ulrich incorporates his response to Request No. 8, which is deficient for the reasons identified above. Ulrich then identifies copies of America First Credit Union statements produced by Plaintiffs and text messages primarily between Ulrich and Alexander. These responses are insufficient. They do not include meeting minutes, checks, invoices, bank statements, cash deposits, Bitcoin withdrawals and payments and/or exchanges, wire transfers, emails, text messages, instant messages, or voice messages related to Ulrich's discussions, negotiations, payments, transactions, and/or agreements with Feracode, LLC. As your client is aware, his communications and financial transactions with Feracode are at the heart of this case. He must produce every single document demonstrating such communications and transactions. Please produce them immediately.



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**REQUEST NO. 14:** Produce all documents and other tangible things which evidence, reflect, discuss, or relate to *your discussions with any person or entity from 2015 to the present regarding the development of the intellectual property and/or CRM Platform*, including but not limited to oral and written agreements, meeting minutes, emails, text messages, instant messages, and voice messages.

**Ulrich's Deficient Response.** Apart from text communications primarily between Ulrich and Alexander, Ulrich has not produced any email, text, or instant message communications related to the development of the intellectual property and/or CRM Platform from 2015 to the present. This belies all credibility. Undoubtedly, Ulrich has communicated with numerous persons and entities regarding the asset at the heart of this case. Please produce all responsive documents immediately.

**REQUEST NO. 15:** Produce all documents and other tangible things which evidence, reflect, discuss, or relate to *any and all payments, deposits, withdrawals, transfers (cash or Bitcoin), and/or exchanges that Michael Alexander made to you from 2015 to the present*, including but not limited to oral and written agreements, meeting minutes, checks, invoices, bank statements, cash deposits, Bitcoin withdrawals and payments and/or exchanges, wire transfers, emails, text messages, instant messages, or voice messages.

**Ulrich's Deficient Response.** Ulrich merely identifies two emails produced by Plaintiffs referencing payments and contributions from Alexander and six pages of business expenditure summaries related to Smash Technology. This is insufficient. Ulrich has failed to produce checks, invoices, bank statements, cash deposits, Bitcoin withdrawals and payments and/or exchanges, wire transfers, emails, text messages, instant messages, or voice messages related to any and all payments, deposits, withdrawals, transfers (cash or Bitcoin) and/or exchanges that Michael Alexander made to Ulrich from 2015 to the present. Similar to many of the deficiencies identified above, the lack of financial documents produced by Ulrich is simply astounding. Please produce all responsive documents immediately.

**REQUEST NO. 16:** Produce all documents and other tangible things which evidence, reflect, discuss, or relate to *any and all payments, deposits, withdrawals, transfers (cash or Bitcoin), and/or exchanges that you made to Alexander, Technology, Solutions, Innovations, and/or Feracode from 2015 to the present*, including but not limited to oral and written agreements, meeting minutes, checks, invoices, bank statements, cash deposits, Bitcoin withdrawals and payments and/or exchanges, wire transfers, emails, text messages, instant messages, or voice messages.

**Ulrich's Deficient Response.** Ulrich incorporates his responses to Requests Nos. 2 and 15, which are deficient for the reasons identified above. Please produce all responsive documents immediately.



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## II. SMASH SOLUTIONS' DEFICIENT RESPONSES TO DOCUMENT REQUESTS

**REQUEST NO. 1:** Please produce *all documents that support the damages that you claim in this case*, including all documents that you will provide to any expert witness who you retain to calculate your damages.

**Smash Solutions' Deficient Response.** Solutions stated it "is gathering responsive documents that will be produced as soon as they are available." This is insufficient. There is no explanation as to what documents it is gathering and when they will be produced. Plaintiffs served document requests two months ago. Please produce responsive documents immediately.

**REQUEST NO. 2:** Please produce *records of all your financial transactions from 2015 to the present*, including bank account records, accounting records, ledgers, profit-loss statements, balance sheets, and any schedules of debts, liabilities, or assets.

**Smash Solutions' Deficient Response.** Solutions produced checking account statements from America First Credit Union. It has failed to produce other accounting records, ledgers, profit-loss statements, balance sheets, and any schedules of debts, liabilities, or assets. Please produce all responsive documents immediately.

**REQUEST NO. 3:** Please produce copies of *all federal and state tax returns* filed in the United States for the taxable years 2015 through the present.

**Smash Solutions' Deficient Response.** Solutions states it "does not have responsive documents in his possession but will supplement this Response when such documents or information become available." This is insufficient and belies credibility. Solutions clearly has access to its tax returns. Solutions has an obligation to collect and produce these documents, which clearly fall under its possession, custody, or control even if copies are maintained by accountants or other service providers. Please produce responsive documents immediately.

**REQUEST NO. 4:** Please provide any agreements, contracts, or draft documents between Solutions and any individual or entity for employment, membership, ownership, or operations with Solutions.

**Smash Solutions' Deficient Response.** Solutions points to some responsive documents it produced. There are notable omissions, however, including but not limited to employment contracts with employees, investor agreements with investors, and K-1 or other filings with governmental authorities and agencies. Please produce these responsive documents immediately.

**REQUEST NO. 8:** Please produce copies of any documents supporting or relating to *any transactions between you and Innovations, Ulrich, Technology, and/or Feracode from*



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*2015 to the present*, including but not limited to checks, wire transfer records, payment receipts, bank account records, cryptocurrency accounts and transaction receipts and records, and other related documents.

**Smash Solutions' Deficient Response.** Solutions points to a handful of responsive documents it produced, but it is not anywhere close to the entire realm of responsive documents. Solutions has failed to produce checks, wire transfer records, payment receipts, cryptocurrency accounts and transaction receipts and records, and other related documents demonstrating transactions between it, on the one hand, and Technology, Solutions, Innovations, and/or Feracode on the other hand. As your client is aware, obtaining evidence of Solutions' real time transactions—flowing from its accounts to the relevant entities, including Feracode—will be critical evidence in this case. To date, Solutions has not produced any financial transaction documents in response to this request. Solutions merely identifies copies of the Feracode Master Services Agreement and related correspondence it produced. But those documents, similar to Ulrich's deficient responses, do not evidence any actual financial transactions. Please produce all responsive documents immediately.

**REQUEST NO. 12:** Produce all documents and other tangible things which evidence, reflect, discuss, or relate to *the formation, funding, and/or operation of Smash Innovations, LLC*, including but not limited to oral and written agreements, meeting minutes, checks, invoices, bank statements, cash deposits, Bitcoin withdrawals and payments and/or exchanges, wire transfers, emails, text messages, instant messages, or voice messages.

**Smash Solutions' Deficient Response.** Solutions produced articles of incorporation, registered agent, certificate of organization, operating agreement, and tax EIN documents for Smash Innovations. These basic documents are insufficient. They do not include any meeting minutes, checks, invoices, bank statements, cash deposits, Bitcoin withdrawals and payments and/or exchanges, wire transfers, emails, text messages, instant messages, or voice messages. Similar to Ulrich's deficiencies, it is difficult to believe that Solutions does not have substantial email or text communications with persons or entities related to the funding, formation, and operation of Smash Innovations. Please produce all responsive documents immediately.

**REQUEST NO. 13:** Produce all documents and other tangible things which evidence, reflect, discuss, or relate to *your discussions, negotiations, payments, transactions, and/or agreements with Feracode, LLC*, including but not limited to oral and written agreements, meeting minutes, checks, invoices, bank statements, cash deposits, Bitcoin withdrawals and payments and/or exchanges, wire transfers, emails, text messages, instant messages, or voice messages.

**Smash Solutions' Deficient Response.** Solutions incorporates its response to Request No. 8, which is deficient for the reasons identified above. Solutions then identifies copies of America First Credit Union statements produced by Plaintiffs and text messages primarily





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between Ulrich and Alexander. These responses are insufficient. They do not include meeting minutes, checks, invoices, bank statements, cash deposits, Bitcoin withdrawals and payments and/or exchanges, wire transfers, emails, text messages, instant messages, or voice messages related to Ulrich's discussions, negotiations, payments, transactions, and/or agreements with Feracode, LLC. As your client is aware, its communications and financial transactions with Feracode are at the heart of this case. It must produce every single document demonstrating such communications and transactions. Please produce them immediately.

**REQUEST NO. 14:** Produce all documents and other tangible things which evidence, reflect, discuss, or relate to *discussions with any person or entity from 2015 to the present regarding the development of the intellectual property and/or CRM Platform*, included but not limited to oral and written agreements, meeting minutes, emails, text messages, instant messages, and voice messages.

**Smash Solutions' Deficient Response.** Apart from text communications primarily between Ulrich and Alexander, Solutions has not produced any email, text, or instant message communications related to the development of the intellectual property and/or CRM Platform from 2015 to the present. This belies all credibility. Solutions and its agents and employees have communicated with numerous persons and entities regarding the asset at the heart of this case. Please produce all responsive documents immediately.

**REQUEST NO. 15:** Produce all documents and other tangible things which evidence, reflect, discuss, or relate to *any and all payments, deposits, withdrawals, transfers (cash or Bitcoin), and/or exchanges that you made to Ulrich, Innovations, and/or Feracode from 2015 to the present*, including but not limited to agreements, checks, invoices, bank statements, cash deposits, Bitcoin withdrawals, payments, and/or exchanges, wire transfers, emails, text messages, instant messages, or voice messages.

**Smash Solutions' Deficient Response.** Solutions merely identifies two emails produced by Plaintiffs referencing payments and contributions from Alexander and six pages of business expenditure summaries related to Smash Technology. This is insufficient. Solutions has failed to produce checks, invoices, bank statements, cash deposits, Bitcoin withdrawals and payments and/or exchanges, wire transfers, emails, text messages, instant messages, or voice messages related to any and all payments, deposits, withdrawals, transfers (cash or Bitcoin) and/or exchanges that it made to Ulrich, Innovations, and/or Feracode from 2015 to the present. Similar to Ulrich's deficiencies identified above, the lack of financial documents produced by Solutions is simply astounding. Please produce all responsive documents immediately.

### **III. FERACODE INVOICES TO SMASH INNOVATIONS MAY BE FRAUDULENT**

Your clients produced purported invoices from Feracode to Smash Innovations (SS000652-SS000661) starting in March 2018. As demonstrated by the formation documents,



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and as your clients are fully aware, Smash Innovations was formed and organized in January 2019 (SS000591-SS000619). Significantly, these purported invoices attempt to mirror (and presumably replace) the actual invoices submitted by Feracode to Smash Technology in real time (ALEX000986- ALEX000995). We intend to propound another request seeking the metadata related to these invoices. If your client intends to withdraw or disavow them, please let me know.

I look forward to resolving these issues with you. I'm always available for a call to discuss.

Respectfully,

A handwritten signature in blue ink, appearing to read "DGR", with a long horizontal flourish extending to the right.

Darren G. Reid  
of Holland & Hart LLP

DGR:clf

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